

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of Jifeng Liu *et al.*

Application No. 10/566,686

Confirmation No. 9220

Filed: March 8, 2007

Art Unit: 1762

For: METHOD AND STRUCTURE OF STRAIN
CONTROL OF SiGe BASED
PHOTODETECTORS AND MODULATORS

Examiner: Not yet assigned

Mail Stop PCT
Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND UNDER 37 CFR 1.117

A refund is hereby requested of a five-month-extension-of-time fee of \$2,160 charged to deposit account 07-1700 on September 6, 2007, for the above-referenced patent application.

For the reasons that follow, the undersigned attorney submits that this fee was improperly charged and requests a refund thereof.

1. On May 22, 2006, a Notification of Missing Requirements for the above-referenced application was mailed by the U.S. Patent and Trademark Office. The period of response was two months from the date of the Notification, with extensions available under 37 CFR 1.126(a).
2. On July 21, 2006, the undersigned attorney filed a Response to Notification of Missing Requirements, which included a fully executed Declaration and Power of Attorney form.
3. On February 26, 2007, a Notification of Defective Response was mailed from the U.S. Patent and Trademark Office. The Notification states that the submitted Declaration and Power of Attorney is unacceptable because the "declaration document appears to be a compilation of a number of separate declaration documents." The Notification refers to MPEP 201.03(II)(B) for support.
4. Applicant was given the following deadline to complete this requirement:

within a time limit of ONE MONTH from the date of this Notification or the time remaining in the response set forth in the Notification of Missing Requirements, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but this period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

5. On March 6, 2007, the undersigned attorney filed a Response to Notification of Defective Response, including a full set of each copy of Declaration and Power of Attorney form executed by the inventors, as evidenced by the stamped postcard received from the USPTO (Exhibit A).
6. MPEP 202.03(II)(B) recites:

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with B's signature (so that it appears that the declaration was executed with the entire inventive party appearing in the declaration when it did not).
7. In the instant application, each oath or declaration executed by the inventors contained a complete listing of all inventors, unlike the example given in the above-cited section of the MPEP. Although the initial submission did not appear to be in violation of MPEP 202.03(II)(B), the undersigned attorney submitted a full set of each executed copy of the Declaration and Power of Attorney form as a courtesy to the USPTO.
8. The Response was filed within the one-month time limit set by the Notification of Defective Response.
9. As stated in the Notification of Defective Response, this one-month time limit is not extendable.
10. No late fees were incurred by the submission of the Response to Notification of Defective Response because (i) the Response was timely filed within the one-month time limit and (ii) no extensions of the one-month time limit were even available, as the submission was made nearly ten months after the Notification of Missing Requirements, i.e., well after the period for response set in the Notification of Missing Requirements expired.

11. A refund of \$2,160 corresponding to the improperly charged extension-of-time fee is hereby requested.

Respectfully submitted,

Date: November 28, 2007

Reg. No.: 44,381

Tel. No.: (617) 570-1806

Fax No.: (617) 523-1231

/Natasha C. Us/

Natasha C. Us

Attorney for the Applicants

Goodwin | Procter LLP

Exchange Place

Boston, MA 02109